## REMARKS/ARGUMENTS

Claims 1-44 are pending. Claims 1, 17, and 31 have been amended. The amendments are supported by the application as filed, for example at page 4, lines 16-31, page 9, lines 13-31, and page 14, lines 23-31. No new matter has been added.

## Interview Summary

Applicant's attorney thanks the Examiner for discussing the application in a telephone interview on August 11, 2009. In the interview, the Examiner provided helpful suggestions regarding claim amendments intended to overcome the rejections set forth in the outstanding Office Action. Accordingly, the claims have been amended as discussed in the interview. No formal agreement on patentability was reached.

## Rejection of the Claims under 35 U.S.C. § 103

Claims 17-20, 23-25, 27-34, 37-38, and 42-44 were rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, U.S. Patent No. 6,405,250 (hereinafter "Lin") and Liao, U.S. Patent No. 7,185,081 (hereinafter "Liao"). Claims 1-6, 9-11, 13-16, and 39 were rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, and Subramanian, U.S. Patent No. 5,519,707 (hereinafter "Subramanian"). Claim 12 was rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Subramanian, Liao, and Winokur, U.S. Patent No. 5,483,637 (hereinafter "Winokur"). Claims 26 and 40-41 were rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, and Winokur. Claim 7 was rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Subramanian, Liao, and Azarmi, U.S. Patent No. 5,905,715 (hereinafter "Azarmi"). Claims 26 and 40-41 were rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, and Winokur. Claim 8 was rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Subramanian, Liao, and Ross, GB2318479 (hereinafter "Ross"). Claims 21 and 35 were rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, and Azarmi. Claim 22 was rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, Winokur, and Ross. Claim 36 was rejected under 35 U.S.C. § 103(a) as obvious in view of Lin, Liao, and Ross.

It is respectfully submitted that the claims are not obvious in view of the cited references for at least the following reasons.

By way of example, claim 1 defines a system for providing dynamic feedback control of network elements in a data network. Claim 1, as amended, recites:

a policy engine system operable to dynamically analyze at least a portion of said received information based upon selected guidelines to determine whether a performance of at least a portion of said network conforms with a predetermined application specific performance criteria;

Embodiments including predetermined application specific criteria are discussed throughout the application as filed. For example, the application states:

The overall architecture of the policy engine is such that it allows for application specific plug-in policies to be added or deleted from the system. The policy server design is made modular so that decision tree modules can be added and deleted at will without disruption to the policy engine. Each application specific plug-in policy module (254b-254e) may be implemented as a plug-in to the policy server 254a. Application specific policy plug-ins include frame relay policies, ATM policies, dial up policies, traffic shaping policies, quality of service (QoS) policies, security policies, admin policies, SLA policies, etc. Examples of various application specific policy plug-ins are shown in FIGURE 5C, and include an ATM policy plug-in 254b, a frame relay policy plug-in 254b, a dial up policy plug-in 254b, and a security policy plug-in 254e. The examples shown in FIGURE 5C merely illustrate some of the various application specific policy plug-ins which may be attached to the policy server 254A.

(Page 23, lines 21-33).

The Office Action states:

Lin does not expressly call for: application specific criteria

(Page 3, line 9).

Since Lin does not expressly call for application specific criteria, it is respectfully submitted that Lin fails to disclose or suggest determining "whether a performance of at least a portion of said network conforms with a predetermined application specific performance criteria," as recited in claim 1.

The Office Action also states:

Liao teaches: application specific criteria (specific application requirements or criteria per col. 2 lines 1 to 15)

(Page 3, lines 10-11).

Liao relates generally to a "packet classification language" used "to specify data packets in a routing device." (Abstract). According to Liao, "Packet classification is an operation that is

12

common to all packet routing and switching devices. For example, firewall filtering requires packets to be classified so that certain identified packets can be eliminated from the outgoing traffic. Packet classification is necessary to implement policy-based routing." (Col. 1, lines 21-26).

Liao describes modifying packet classification policies according to specific application requirements. (Col. 2, lines 11-12). However, nowhere does Liao disclose or suggest that this is done dynamically. Instead, Liao indicates that it is done by a user. (Col. 2, lines 9-13). In contrast, claim 1 makes clear that the analyzing is dynamically performed by a policy engine. In addition, claim 1 recites determining "whether network performance conforms with predetermined application specific performance criteria." Nowhere does Liao disclose or suggest making such a determination. Thus, manually modifying packet classification rules according to specific application requirements, as mentioned in Liao, is different than determining whether a performance of at least a portion of a network conforms with a predetermined application specific performance criteria, as recited in claim 1. Therefore, Liao fails to disclose or suggest the above-quoted features recited in claim 1.

Subramanian is not cited in the Office Action as disclosing or suggesting any feature related to application specific performance criteria.

Therefore, it is respectfully submitted that Lin, Liao, and Subramanian, considered alone or in combination, fail to disclose or suggest the above-quoted features recited in claim 1.

However, in order to expedite prosecution, claim 1 has been amended to also recite:

> wherein the reporting is dynamically triggered by the performance of the portion of said network failing to conform with the predetermined application specific performance criteria, **the predetermined application specific performance criteria selected from the group consisting of: a specified bandwidth usage, a specified committed information rate, a specified excess information rate, a specified committed burst size, a specified excess burst size, and a specified number of dropped packets.**

(Emphasis Added).

Specific examples of application specific performance criteria according to some embodiments are discussed throughout the application as filed. For example, the application states:

> In a specific embodiment where the network element is part of a frame relay circuit, examples of the information reported by

13

the network element may include information relating to: committed information rate (CIR), excess information rate (EIR), committed burst size (Bc), excess burst size (Be), congestion indicators (e.g., discarded eligibility bits), number of packets dropped (e.g. during a given time interval), queue length at selected circuits within the network element, etc. Further, any of the above described parameters may be dynamically and automatically modified or updated by the policy engine and fed back to desired network elements for affecting the operation or performance of the network.

(Page 14, lines 23-31).

Lin and Subramanian are not cited in the Office Action as disclosing or suggesting any predetermined application specific criteria, any determination regarding whether a performance of at least a portion of a network conforms with a predetermined application specific criteria. Thus, Lin and Subramanian necessarily fail to disclose or suggest the specific examples of application specific performance criteria recited in claim 1 as amended.

As discussed herein, Liao also fails to disclose or suggest determining whether the performance of at least a portion of a network conforms with a predetermined application specific criteria. Further, there is no indication that any of the "specific application requirements" mentioned in Liao (col. 2, line 12) is a "performance criteria" at all, much less one of the specific examples of predetermined application specific performance criteria recited in claim 1 as amended.

Thus, claim 1 recites features that are not disclosed or suggested in Lin, Liao, and Subramanian, considered alone or in combination. Therefore, claim 1 is not obvious in view of Lin, Liao, and Subramanian.

Claims 17 and 31 have been amended to recite features similar to claim 1 and thus are not obvious for at least the reasons set forth above. The dependent claims include, by virtue of their dependency, the features of the independent claims on which they are based and, therefore, are not obvious for at least the reasons set forth above.

Winokur, Azarmi, and Ross are not cited as disclosing or suggesting any element of an independent claim and, therefore, are not discussed herein.

Therefore, it is respectfully requested that the rejection of claims 1-44 under 35 U.S.C. § 103(a) be withdrawn.

## Conclusion

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set forth below.

Applicant does not believe that any additional fees are required to facilitate the filing of this Amendment. However, if it is determined that such fees are due, please charge such additional fees to Deposit Account No. 504480 (Order No. CISCP120C1).

Respectfully submitted,
WEAVER AUSTIN VILLENEUVE & SAMPSON LLP

/Jeffrey K. Weaver/

Jeffrey K. Weaver
Reg. No. 31,314

P.O. Box 70250
Oakland, CA 94612-0250
(510) 663-1100